

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-16 IO-14 ISO-00 TRSE-00 EB-11 CIEP-02

CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00

PM-07 H-03 INR-11 NSC-07 PA-04 RSC-01 PRS-01 SP-03

SS-20 FRB-03 OMB-01 TAR-02 SWF-02 AGR-20 AID-20

COME-00 LAB-06 OIC-04 SIL-01 STR-08 CEA-02 AF-10

EA-11 EUR-25 NEA-14 /233 R

DRAFTED BY L:MBFELDMAN:LHS

APPROVED BY L:MBFELDMAN

TREASURY:JEINHORN

TREASURY:RGOODMAN

EB/ITP:MGLITMAN

EB/OT/GCP:CBLACK

ARA/MEX:PTORREY

IO/CMD:AYODER

L:JWILLIS

CIEP:RSTERNFELD

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O R 222236Z JUL 74

FM SECSTATE WASHDC

TO USMISSION GENEVA IMMEDIATE

INFO USMISSION USUN NEW YORK

AMEMBASSY MEXICO

C O N F I D E N T I A L STATE 158699

E.O. 11652: GDS

TAGS: ECOSOC, EGEN, UN, UNCTAD

SUBJECT: UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES

REF: GENEVA 4531

1. OUR OBJECTIVE IN GENEVA B GROUP CONSULTATIONS IS TO
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MAINTAIN SOLIDARITY OF WEO'S ON BASIC POSITIONS OF INTEREST

TO U.S. IN PREPARATION FOR AD HOC CONSULTATIONS WITH OTHER MEMBERS OF THE UNCTAD WORKING GROUP IN EARLY SEPTEMBER. IN GENERAL, WE BELIEVE COMMON EFFORT SHOULD BE TO MAINTAIN PROGRESS THAT WAS MADE WITH THE LDC'S ON THE WHOLE RANGE OF ISSUES PRIOR TO THE BREAKDOWN OF CONSENSUS AT THE CLOSE OF THE JUNE MEETING IN MEXICO AND TO MAINTAIN SUPPORT OF BRILLANTES (AND OTHER MODERATE LDC LEADERS) FOR THE COMPREHENSIVE DRAFT ON INVESTMENT ISSUES PUT FORWARD AS HIS OWN PROPOSAL. (THAT DRAFT IS ACCEPTABLE TO U.S. EXCEPT FOR THE PHRASE "INTERNATIONAL COMMITMENTS AND UNDERTAKINGS" SUBSTITUTED BY BRILLANTES FOR "INTERNATIONAL OBLIGATIONS.- ALTHOUGH PHRASE IS SOMEWHAT AMBIGUOUS WE FEAR IT MIGHT BE CONSTRUED NARROWLY TO BE LIMITED TO TREATIES AND OTHER SPECIFIC INTERGOVERNMENTAL AGREEMENTS.)

OUR TASK WILL BE A DIFFICULT ONE AS BRILLANTES HAS COME UNDER SEVERE ATTACK FROM MORE RADICAL LDC'S FOR ENDORSING TRADITIONAL WESTERN CONCEPTS SUCH AS GOOD FAITH OBSERVATION OF INVESTMENT AGREEMENTS AND PAYMENT OF JUST COMPENSATION FOR EXPROPRIATED PROPERTY. HE MAY BE LOOKING FOR OPPORTUNITY TO BACK AWAY FROM COMPREHENSIVE PROPOSAL.

2. IN VIEW OF THE ABOVE WE BELIEVE YOU SHOULD ENDEAVOR TO OBTAIN B GROUP SUPPORT FOR OPENING POSITION BASED ON "INTERNATIONAL OBLIGATIONS" AND FOR FALL-BACK POSITION WHICH FULLY PROTECTS OUR SUBSTANTIVE INTERESTS. YOUR SUGGESTED SUBSTITUTE "THE RIGHTS AND DUTIES OF STATES" IMPORTS GENERAL PRINCIPLES OF INTERNATIONAL LAW AND HAS THE FURTHER ADVANTAGES OF BEING NEW AND DIFFICULT TO OPPOSE BECAUSE IT IS REDOLENT OF THE TITLE OF THE CHARTER. THEREFORE, WE SUGGEST YOU ENDEAVOR TO RALLY SUPPORT FOR THIS FORMULA AS A FALL-BACK FOR SEPTEMBER. YOU MAY ALSO EXPLORE WITH KEY AND DISCREET DELEGATIONS APPROPRIATE REFERENCE TO THE PRINCIPLE OF CHARTER I(H) WHICH SPECIFICALLY REFERS TO GOOD FAITH FULFILLMENT OF INTERNATIONAL OBLIGATIONS, OR SIMPLY TO CHARTER I - THOUGH MORE SPECIFIC REFERENCE OBVIOUSLY PREFERABLE. WE ARE CONCERNED, HOWEVER, THAT EXPOSING OUR THINKING TO WHOLE OF GROUP B AT THIS TIME MIGHT RESULT IN LEAKS AND WEAKEN OUR BARGAINING POSITION. KISSINGER
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